

Nuclear Regulatory Commission

§ 2.346

the Commission or the presiding officer.

(d) Within ten (10) days after service of an application for a stay under this section, any party may file an answer supporting or opposing the granting of a stay. This answer may not be longer than ten (10) pages, exclusive of affidavits, and should concisely address the matters in paragraph (b) of this section to the extent appropriate. Further replies to answers will not be entertained. Filing of and service of an answer on the other parties must be by the same method, *e.g.*, electronic or facsimile transmission, mail, as the method for filing the application for the stay.

(e) In determining whether to grant or deny an application for a stay, the Commission or presiding officer will consider:

(1) Whether the moving party has made a strong showing that it is likely to prevail on the merits;

(2) Whether the party will be irreparably injured unless a stay is granted;

(3) Whether the granting of a stay would harm other parties; and

(4) Where the public interest lies.

(f) In extraordinary cases, where prompt application is made under this section, the Commission or presiding officer may grant a temporary stay to preserve the status quo without waiting for filing of any answer. The application may be made orally provided the application is promptly confirmed by electronic or facsimile transmission message. Any party applying under this paragraph shall make all reasonable efforts to inform the other parties of the application, orally if made orally.

§ 2.343 Oral argument.

In its discretion, the Commission may allow oral argument upon the request of a party made in a petition for review, brief on review, or upon its own initiative.

§ 2.344 Final decision.

(a) The Commission will ordinarily consider the whole record on review, but may limit the issues to be reviewed to those identified in an order taking review.

(b) The Commission may adopt, modify, or set aside the findings, conclusions and order in the initial decision, and will state the basis of its action. The final decision will be in writing and will include:

(1) A statement of findings and conclusions, with the basis for them on all material issues of fact, law or discretion presented;

(2) All facts officially noticed;

(3) The ruling on each material issue; and

(4) The appropriate ruling, order, or denial of relief, with the effective date.

§ 2.345 Petition for reconsideration.

(a)(1) Any petition for reconsideration of a final decision must be filed by a party within ten (10) days after the date of the decision.

(2) Petitions for reconsideration of Commission decisions are subject to the requirements in § 2.341(d).

(b) A petition for reconsideration must demonstrate a compelling circumstance, such as the existence of a clear and material error in a decision, which could not have been reasonably anticipated, which renders the decision invalid. The petition must state the relief sought. Within ten (10) days after a petition for reconsideration has been served, any other party may file an answer in opposition to or in support of the petition.

(c) Neither the filing nor the granting of the petition stays the decision unless the Commission orders otherwise.

§ 2.346 Authority of the Secretary.

When briefs, motions or other papers are submitted to the Commission itself, as opposed to the officers who have been delegated authority to act for the Commission, the Secretary or the Assistant Secretary is authorized to:

(a) Prescribe procedures for the filing of briefs, motions, or other pleadings, when the schedules differ from those prescribed by the rules of this part or when the rules of this part do not prescribe a schedule;

(b) Rule on motions for extensions of time;

(c) Reject motions, briefs, pleadings, and other documents filed with the